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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/625,328

07/23/2003

Sebastien Weitbruch

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07/15/2009

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EXAMINER

CASCHERA, ANTONIO A

ART UNIT

PAPER NUMBER

2628

MAIL DATE

DELIVERY MODE

07/15/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/625,328	Applicant(s) WEITBRUCH ET AL.	
	Examiner Antonio A. Caschera	Art Unit 2628	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 April 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 17-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 17-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 August 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Priority

1. Acknowledgment is made of applicant's claim for foreign priority under 35

U.S.C. 119(a)-(d). The certified copy has been filed in the pending application.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1-6 and 17-25 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

In reference to claims 1-6 and 17-25, the claims recite a method and a device for processing video data and comprise specific “dithering” and “motion estimator” devices for performing the parts of the invention (see dithering and motion estimation limitations of claims 1 and 17). The specification however, does not enable one of ordinary skill in the art to make or use the invention since the specification does not explicitly define such devices. The specification solely describes Figure 3 of the drawings with example "hardware" in a block diagram while further describing each of the elements as "blocks" (see page 11 of Applicant's specification). Nowhere in the specification is there any marriage of such "blocks" to any

Art Unit: 2628

processing hardware or devices that one of ordinary skill in the art would have at least interpreted to perform such actions as defined by the amended devices of the claims. In other words, although the specification recites such blocks, it does not clearly define where (i.e. CPU, GPU, combination of both or some special processor) the hardware block is performed or even infer where such items can be found in the “device for processing video data.” Such lack of description of the specification does not enable one of ordinary skill in the art to make or use the invention and therefore such a rejection is warranted under 35 USC 112, 1st paragraph. (see *Response to Arguments* below)

Response to Arguments

3. Applicant’s arguments, see pages 6-8 of Applicant’s Remarks, filed 04/22/09, with respect to the 35 USC 101 rejection of claims 1-6 have been fully considered and are persuasive. The 35 USC 101 rejection of these claims has been withdrawn. Note, the sufficient limitations that have been amended to claim 1 are however, in question as per 35 USC 112, 1st paragraph as seen in the above rejection.

4. Applicant’s arguments, see pages 8-9 of Applicant’s Remarks, filed 04/22/09, with respect to the 35 USC 112, 1st paragraph rejection of claims 1-6 and 17-25 in view of the “eliminating” term, have been fully considered and are persuasive. The 35 USC 112, 1st paragraph rejection of these claims in view of this issue has been withdrawn.

5. Applicant’s arguments filed 04/22/09 have been fully considered but they are not persuasive.

Art Unit: 2628

In reference to claims 17-25, Applicant argues that the art of processing video data, dithering, motion estimating and outputting are all well known to those of ordinary skill in the art (see pages 9-14 of Applicant's Remarks). Further Applicant states, "Accordingly, it is conventional to disclose a device for processing video data as design of hardware "blocks." By disclosing the hardware "blocks" and the functionality of such "blocks", one of ordinary skill in the art would be able to make or use the invention," (see page 11 of Applicant's Remarks).

In response, the Examiner disagrees and attempts to further explain the position and rationale made. Firstly, the Examiner states that nowhere in the specification is there any indication that such "devices" or elements of video processing (i.e. dithering, motion estimation) are "conventional" or are "prior art" elements/methods. Nonetheless, the Examiner states that one of ordinary skill in the art could realize that a block diagram represents hardware elements however, there is a huge variety of different hardware elements (i.e. memories, processors, converters, coprocessors, logical units etc.) that one of ordinary skill in the art would not be able to obtain or even infer from Applicant's specification/drawings/claims so as to make or use the invention. Again, it is the information of for example, where or in what hardware element such "devices" are found, that the specification/drawings lack. With the current specification/drawings one of ordinary skill in the art may interpret such "devices" as part of a graphics adapter of a desktop computer, an integrated circuit of a PDA, a video component of an automobile stereo system, a video/graphics component of a DVD/DVR TV system or many other various combination of locations/devices. Further, all of these environments/devices have varying levels and types of hardware which any one of, could possibly comprise the elements in question from the claims. Therefore, the Examiner finds that simply stating that such elements

Art Unit: 2628

are known in the art is insufficient to overcome the 35 USC 112, 1st paragraph rejection. Further, it seems that the specification/drawings are lacking such more specific information of the "devices" in question and Applicant is attempting to overcome such lack of teachings, obviously critical to the operation, understanding and creation of the invention, by stating such elements are well known in the art. Again, this is seen as insufficient and 35 USC 112, 1st paragraph rejection is maintained. Note, claims 1-6 are now included in this rejection as well since they have been amended to include the "devices" in question.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Art Unit: 2628

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Antonio Caschera whose telephone number is (571) 272-7781.

The examiner can normally be reached Monday-Friday between 7:00 AM and 3:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kee Tung, can be reached at (571) 272-7794.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

571-273-8300 (Central Fax)

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (571) 272-2600.

/Antonio A Caschera/

Primary Examiner, Art Unit 2628

7/15/09